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10/039,747	11/09/2001	Masaya Matsuura	100809-00086(SCEY 19.165)	9130
26304	7590	03/14/2005	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			PEREZ DAPLE, AARON C	
			ART UNIT	PAPER NUMBER
			2154	
DATE MAILED: 03/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/039,747

**Applicant(s)**

MATSUURA ET AL.

**Examiner**

Aaron C Perez-Daple

**Art Unit**

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) 1 and 4-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/27/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Action is in response to RCE filed 12/13/04, which has been fully considered.
2. Amended claims 1 and 4-12 are presented for examination.
3. Claims 2 and 3 remain cancelled by Applicant.
4. This Action is non-Final.

### *Claim Objections*

5. **Claim 11** is objected to because of the following informalities: line 3 recites “a partial image” where it should recite --a first partial image--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1, 4-6 and 10-12** are rejected under 35 U.S.C. 102(b) as being anticipated by Sitrick (US 5,553,864) (hereinafter Sitrick).
8. **Examiner’s Interpretation:** Under a first interpretation of the claims, the Examiner finds that extracting a contour is inherent to extracting a partial image (or sub-image) as disclosed by Sitrick. See *Response to Arguments* below.
9. As for claims 1 and 10-12, Sitrick discloses a display control method and a storage medium having recorded therein a control program comprising the steps of:

capturing an image (col. 2, lines 50-64);

extracting a first partial image from the complete image, wherein the complete image is altered to become a modified image, the first partial image comprising at least one portion of a display object (col. 7, lines 36-40; col. 24, line 41 – col. 25, line 28);

extracting a contour of the at least one portion of the display object (considered inherent to the extraction of a partial image, because the image cannot be extracted without also extracting the contour);

adding a predetermined visual effect to the extracted contour to form a game piece (col. 25, lines 17-28); and

displaying the modified image (col. 22, lines 23-47); and

displaying the game piece in a moving motion (col. 25, lines 17-18).

10. As for claim 4, Sitrick discloses the display control method according to claim 1, wherein a visual effect by which the game piece can stereographically be seen is added in the step of adding the predetermined visual effect (col. 18, lines 39-46).

11. As for claim 5, Sitrick discloses the display control method according to claim 1, wherein the step of adding the visual effect further comprises the step of modifying the brightness of the game piece (col. 18, lines 16-30).

12. As for claim 6, Ref discloses the display control method according to claim 1, further comprising the steps of:

displaying a predetermined game character (col. 25, lines 17-28); and

displaying a second partial image together with the game character in a moving motion in response to an operation of moving the game character (col. 25, lines 17-28).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 7-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick (US 5,553,864) as applied to claims 1 and 6, in view of Morhira (US 6,361,438 B1) (hereinafter Morhira).
15. As for claim 7, neither Sitrick nor Morhira specifically disclose a straight line passing the center of the entire captured image and displaying the partial image according to a predetermined timing moving along the straight line. However, Morhira presents a discussion of video game systems which model a three-dimensional space within which characters may interact (col. 1, lines 6-63, "The present invention...the translucent appearance."). It is known and expected to those of ordinary skill in the gaming art that the characters, objects and images of the game may interact with a variety of other characters, objects and images, which may include straight lines and other geometric objects, depending on the particular game. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sitrick and Morhira such that a straight line passes the center of the entire captured image and the partial image is displayed according to a predetermined timing moving along the straight line, because this would allow for creating

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a game effect where an object approaches or “attacks” an enemy, such as in the combat games disclosed by Morhira.

16. As for claim 8, Sitrick does not specifically disclose the display control method according to claim 7, wherein the partial image is displayed in a moving motion at a speed corresponded to the size of the partial image in the step for displaying the partial image in a moving motion along a straight line. Morhira teaches displaying an image in a moving motion at a speed corresponding to the size of the image (col. 1, lines 6-63, “The present invention...the translucent appearance.”). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sitrick such that the partial image is displayed in a moving motion at a speed corresponded to the size of the partial image in the step for displaying the partial image in a moving motion along a straight line, because this would allow for creating a game effect where an object approaches or “attacks” an enemy with a three-dimensional perspective, such as in the combat games disclosed by Morhira.

17. As for claim 9, Sitrick discloses a display control method similar to claim 8, further comprising the steps of:

detecting contact between the game piece displayed in a moving motion along the straight line and the partial images (col. 18, lines 16-30); and

adding, upon detection of the contact between both partial images, a visual effect corresponded to the size of the partial image (col. 18, lines 16-30).

18. **Claims 1, 4-6 and 10-12** are further rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick in view of Murabayashi (JP 11-066272) (hereinafter Murabayashi).

19. **Examiner's interpretation:** Under a second interpretation of the claims, a "contour" is considered to be separate from the object defined by the contour. Thus, the contour could be extracted without extracting the object (partial image) which it contains. It is important to note that, as detailed in the *Response to Arguments* section, the Examiner does not consider the claims to be limited to this interpretation.
20. As for claims 1 and 10-12, Sitrick discloses a display control method and a storage medium having recorded therein a control program comprising the steps of:
- capturing an image (col. 2, lines 50-64);
  - extracting a first partial image from the complete image, wherein the complete image is altered to become a modified image, the first partial image comprising at least one portion of a display object (col. 7, lines 36-40; col. 24, line 41 – col. 25, line 28);
  - adding a predetermined visual effect to the extracted *first partial image* to form a game piece (col. 25, lines 17-28); and
  - displaying the modified image (col. 22, lines 23-47); and
  - displaying the game piece in a moving motion (col. 25, lines 17-18).

Under the interpretation presented above, Sitrick does not specifically disclose extracting a contour from the image and using this contour as a game piece. However, Murabayashi teaches extracting a contour (outline information) from the image and using this contour as a game piece (see abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sitrick by extracting a contour from the image and using this contour as a game piece in order to enhance the amusement and playing performance of a video game device, as taught by Murabayashi.

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21. As for claim 4, Sitrick discloses the display control method according to claim 1, wherein a visual effect by which the game piece can stereographically be seen is added in the step of adding the predetermined visual effect (col. 18, lines 39-46).
22. As for claim 5, Sitrick discloses the display control method according to claim 1, wherein the step of adding the visual effect further comprises the step of modifying the brightness of the game piece (col. 18, lines 16-30).
23. As for claim 6, Ref discloses the display control method according to claim 1, further comprising the steps of:
  - displaying a predetermined game character (col. 25, lines 17-28); and
24. displaying a second partial image together with the game character in a moving motion in response to an operation of moving the game character (col. 25, lines 17-28).
25. **Claims 7-9** are further rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick in view of Murabayashi and in further view of Morhira.
26. As for claim 7, Sitrick, Murabayashi, and Morhira do not specifically disclose a straight line passing the center of the entire captured image and displaying the partial image according to a predetermined timing moving along the straight line. However, Morhira presents a discussion of video game systems which model a three-dimensional space within which characters may interact (col. 1, lines 6-63, "The present invention...the translucent appearance."). It is known and expected to those of ordinary skill in the gaming art that the characters, objects and images of the game may interact with a variety of other characters, objects and images, which may include straight lines and other geometric objects, depending on the particular game. It would have been obvious to one of ordinary skill in the art at the



time of the invention to modify the teachings of Sitrick and Morhira such that a straight line passes the center of the entire captured image and the partial image is displayed according to a predetermined timing moving along the straight line, because this would allow for creating a game effect where an object approaches or “attacks” an enemy, such as in the combat games disclosed by Morhira.

27. As for claim 8, Sitrick and Murabayashi do not specifically disclose the display control method according to claim 7, wherein the partial image is displayed in a moving motion at a speed corresponded to the size of the partial image in the step for displaying the partial image in a moving motion along a straight line. Morhira teaches displaying an image in a moving motion at a speed corresponding to the size of the image (col. 1, lines 6-63, “The present invention...the translucent appearance.”). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sitrick and Murabayashi such that the partial image is displayed in a moving motion at a speed corresponded to the size of the partial image in the step for displaying the partial image in a moving motion along a straight line, because this would allow for creating a game effect where an object approaches or “attacks” an enemy with a three-dimensional perspective, such as in the combat games disclosed by Morhira.

28. As for claim 9, Sitrick discloses a display control method similar to claim 8, further comprising the steps of:

detecting contact between the game piece displayed in a moving motion along the straight line and the partial images (col. 18, lines 16-30); and

adding, upon detection of the contact between both partial images, a visual effect corresponded to the size of the partial image (col. 18, lines 16-30).

***Response to Arguments***

29. Applicant's arguments filed 3/9/05 have been fully considered but they are not persuasive. Specifically, Applicant asserts that Sitrick fails to teach or suggest extracting a contour of the image or object and using this contour as the game piece. The Examiner respectfully disagrees. Referring to the section of Applicant's specification cited in support of this limitation – pg. 9, line 14 to page 10, line 4 – it is evident that the object within the contour is extracted along with the contour. Thus, the contour is used to define the object (i.e. partial or sub-image), but the entire object is extracted together. This interpretation is also supported by Applicant's Figs. 4A-E, which show the contents within the rectangle being extracted along with the rectangle. Because it is impossible to extract a partial image without defining the contour of that partial image (i.e. the region to be extracted), Sitrick inherently teaches this limitation of the claims.

Even assuming, without admitting, that Applicant's disclosure is sufficient to enable extracting the contour alone (i.e. without the object defined by – or contained within – the contour), Murabayashi teaches extracting a contour for use as a game piece, as detailed in the 103 rejection of claims 1 and 10-12 above.


For all of these reasons, claims 1 and 4-12 have been properly rejected.

***Conclusion***


30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron C Perez-Daple whose telephone number is (571) 272-3974. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 5/9/05

Aaron Perez-Daple

  
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